

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 04-10 Erie
)	
STEVEN RAYMOND ARNOLD)	

MOTION TO DISMISS PETITION ON SUPERVISED RELEASE

AND NOW, comes the defendant, Steven Raymond Arnold, by his attorney, Thomas W. Patton, Assistant Federal Public Defender, and respectfully files his Motion to Dismiss Petition on Supervised Release. In support thereof, counsel states:

1. On September 17, 2004, this Court sentenced Mr. Arnold to 11 months of imprisonment followed by two years of supervised release for illegally reentering the country after having previously been deported.

2. Mr. Arnold was released from imprisonment on February 16, 2005, which began the term of his supervised release. 18 U.S.C. § 3624(e).

3. On November 1, 2006, Mr. Arnold was arrested and eventually charged with possessing crack cocaine with intent to distribute and illegally reentering the United States.

4. On November 27, 2007, Mr. Arnold was sentenced by the Honorable Maurice B. Cohill, Jr., in case number 06-60 Erie to a term of 121 months of imprisonment followed by five years of supervised release.

5. On December 3, 2007, the probation department filed a Petition on Supervised Release asking this Court to revoke Mr. Arnold's supervised release based upon his convictions for possessing crack cocaine with intent to distribute and illegal reentry. The Court issued a summons based upon the petition on December 4, 2007.

6. Title 18 U.S.C. § 3583(i) provides that

The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration **if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.**

(emphasis added).

7. Mr. Arnold's period of supervised release expired on February 16, 2007, almost ten months before the summons in this case was issued.

8. The fact that Mr. Arnold was detained prior to the judgment being entered against him on November 27, 2007 did not toll the running of his supervised release. United States v. Morales-Alejo, 193 F.3d 1102, 1105 (9th Cir. 1999) (pretrial detention does not toll running of supervised release).

8. As the summons in this case was not issued prior to the expiration of the term of supervised release, the petition must be dismissed.

WHEREFORE, the defendant, Steven Raymond Arnold, respectfully asks this Honorable Court to dismiss the Petition on Supervised Release.

Respectfully submitted,

/s/ Thomas W. Patton

Thomas W. Patton
Assistant Federal Public Defender
Attorney I.D. No. 88653